federal register

Monday
June 15, 1992

Part XII

Department of Transportation

Federal Aviation Administration

14 CFR Parts 91 and 135

Special Federal Aviation Regulation (SFAR) No. 50-2; Special Flight Rules in the Vicinity of the Grand Canyon National Park; Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 91 and 135

[Docket No. 25149; SFAR No. 50-2]

Special Federal Aviation Regulation (SFAR) No. 50-2 Special Flight Rules in the Vicinity of the Grand Canyon National Park

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: This final rule continues for an additional 3 years the effectiveness of the temporary procedures for the operation of all aircraft in the airspace above Grand Canyon National Park up to an altitude of 14,500 feet above mean sea level. The provisions of SFAR 50-2 originally established the flight restriction areas for a period of 4 years to allow the National Park Service (NPS) time to complete studies of the impact of aircraft overflights on the Grand Canyon and to forward its recommendations to the FAA. This rule continues the effectiveness of these procedures while NPS studies and analyses are being conducted.

DATES: *Effective date:* June 15, 1992.

Expiration date: SFAR No. 50-2 expires on June 15, 1995.

FOR FURTHER INFORMATION CONTACT: Melodie DeMarr Fouts, Air Traffic Rules Branch, ATP-230, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC, 20591; telephone (202) 267-8783.

SUPPLEMENTARY INFORMATION:

Availability of Document

Any person may obtain a copy of this document by submitting a request to the Federal Aviation Administration, Office of Public Affairs, APA-200, 800 Independence Avenue SW., Washington, DC 20591; or by calling (202) 267-3497. Communications must identify the special rule number of the document.

Background

On June 5, 1987, the FAA issued SFAR 50-1 (52 FR 22734, June 15, 1987) which established flight regulations in the vicinity of the Grand Canyon National Park.

On August 18, 1987, legislation was enacted to require a study of aircraft noise impacts at a number of national parks and to impose flight restrictions at three parks: Grand Canyon National Park, Yosemite National Park in California, and Haleakala National Park in Hawaii. (Pub. L. 100-91).

Section 3 of Pub. L. 100-91 required the Secretary of the Interior to submit to the FAA Administrator recommendations for action necessary for the protection of resources in the Grand Canyon from adverse impacts associated with aircraft overflights. The recommendations were to provide for substantial restoration of the natural quiet and experience of the Grand Canyon. With limited exceptions, the recommendations were to prohibit the flight of aircraft below the rim of the Canyon and to designate zones that were flight free except for purposes of administration of underlying lands and emergency operations.

Public Law 100-91 further required the Administrator of the FAA to prepare and issue a final plan for the management of air traffic above the Grand Canyon. The plan was to implement the recommendations of the Secretary without change unless the Administrator determined, after consultation with the Secretary an opportunity for notice and public hearing, that implementing the recommendations would adversely affect aviation safety. In that event, the FAA was required to revise the Department of the Interior (DOI) recommendations to resolve the safety concerns and issue regulations implementing the revised recommendations in the plan.

In December 1987, the Office of the Secretary of the Interior transmitted recommendations to the FAA for an aircraft management plan at the Grand Canyon. The recommendations submitted included both rulemaking and nonrulemaking actions.

On May 27, 1988, the FAA issued SFAR 50-2 (53 FR 20264, June 2, 1988) which revised the procedures for operation of aircraft in the airspace above the Grand Canyon. The rule implemented the preliminary recommendations of the Office of the Secretary of the Interior for an aircraft management plan at the Grand Canyon with some modifications that the FAA initiated in the interest of aviation safety.

Public Law 100-91 also required the DOI to conduct a study, with the technical assistance of the Secretary of Transportation, to determine the proper minimum altitude to be maintained by aircraft when flying over units of the National Park System. The research was to include an evaluation of the noise levels associated with overflights. Before submission to Congress, the DOI is to provide a draft report (containing the results of its studies) and recommendations for legislative and regulatory action to the FAA for review. The FAA is to notify the DOI of any adverse effects these recommendations would have on the safety of aircraft operations. The FAA is to consult with the DOI to resolve these issues. The final report must include a finding by the FAA that implementation of the DOI recommendations will not have adverse effects on the safety of aircraft operations, or, in the alternative, a statement of the reasons why the recommendations will have an adverse effect.

On a continuing basis, the FAA reviews the existing rules and regulations pertaining to flight in the National Airspace System which includes the airspace over national park units. The rules currently provide for the safety of aircraft by specifying a minimum safe altitude for the operation of aircraft. The FAA will consider specific rule changes relating to aircraft overflights of national park system units, consistent with aviation safety, after completion of the NPS studies on the impact of aircraft overflights and the FAA's receipt of NPS recommendations.

On February 4, 1992, the FAA issued a Notice of Proposed Rulemaking to extend the provisions of SFAR 50-2 for another 3 years to allow the NPS to complete studies to assess the adverse impact of aircraft overflights at Grand Canyon National Park and forward its recommendations to the FAA and to Congress. At that time, the FAA will determine the necessity for adjustment of flight restrictions over the Grand Canyon National Park.

This rulemaking action continues for 3 years the effectiveness of the provisions of SFAR 50-2.

Comments on SFAR No. 50-2: Five comments were received on the proposed extension of SFAR 50-2 during the comment period. All of the commenters presented themselves as private pilots with a common interest in maintaining the ability to view and enjoy the natural wonders of the Grand Canyon from the air. The commenters generally agreed that the 14,500 foot altitude restriction over the flight free zones is discriminatory against general aviation aircraft that do not have the performance capability and oxygen equipment to operate at or above that altitude. The commenters also cited resentment of the impact environmental concerns have had on airspace usage over the Grand Canyon.

The FAA acknowledges that the altitude restrictions of the flight free zones are potentially burdensome to a large percentage of general aviation

aircraft. However, it was the intent of the Department of the Interior, as stated in previous rulemaking, to require aircraft to deviate around these zones as part of the plan for the management of air traffic over the park. In areas of the Special Flight Rules Area outside of the flight free zones, the minimum altitudes range from 5,000 to 10,000 feet mean sea level to permit transient operation of aircraft through the area at altitudes separated from congested commercial tour routes.

One commenter stated that the visual flight rules (VFR) corridors are difficult to follow for the transient pilot because they are not aligned with navigational aids.

On the contrary, in the development of the final rule the FAA received many comments suggesting that VFR corridors be realigned with the terrain rather than VOR radials since VOR signals often cannot be received at lower altitudes near the canyon due to terrain and distance from the stations. The FAA agreed and reconfigured the corridors to rely on prominent terrain features as well as VOR signals where possible. Also, the Grand Canyon VFR aeronautical chart is available for pilots transiting the area. That chart includes pictures of the terrain which is overflown in each of the VFR corridors to assist pilots in visual identification of the route.

One commenter submitted that the rule should not apply to aircraft that can be "seen and not heard" such as sailplanes.

The Grand Canyon attracts an unusual level of air traffic in the airspace above the canyon. The FAA is concerned that safety could be impacted by the concentration of air traffic, including powered and non-powered aircraft, over the canyon if the minimum altitudes were lowered. Because of the terrain of the canyon and the relatively low level of most sightseeing flights over the Grand Canyon, air traffic control procedures are not the most feasible method to segregate air traffic. The FAA believes that there is a need to separate transient general aviation traffic from the regular commercial tour operations through the designation of certain routes and altitudes for both Part 135 and non-Part 135 operators.

Environmental Review

An environmental assessment of SFAR 50–2 and a Finding of No Significant Impact were placed in the rules docket. The environmental assessment concluded that, as a result of the SFAR, certain areas of the Grand Canyon would be subject to less aircraft noise than under existing regulations; and other areas, in particular the Hermits Rest area of the south canyon rim, would be subject to slight increase in perceived aircraft noise. However, in consideration of the volume of traffic, the altitude of flight routes, and the noise characteristics of the aircraft typically used in canyon flights, the FAA has determined that no significant environmental impact would result from this rule.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96–511), there are no requirements for information collection associated with this rule.

Regulatory Evaluation Summary

This action extends the provisions of SFAR 50–2 for 3 years. SFAR 50–2 was justified based on DOI's December 1987 cost/benefit analysis. Since that SFAR was published as a final rule in June 1988, the FAA has not obtained any information that is contrary to that analysis. In its original cost-benefit analysis, the DOI concluded the cost to air tour operators would be negligible, and there would be significant benefits to park resources and visitors. Therefore, the DOI determined that the requirements of SFAR 50–2 would be cost-beneficial. For lack of information to the contrary, the FAA contends that the DOI's negligible cost impact conclusion is still valid. However, a recent review of Docket No. 25149 revealed that one operator stated that his company would incur an additional operating cost of $150,000 as a result of the original SFAR 50–2 published in 1988. The FAA has solicited further comments on this SFAR concerning additional operating costs imposed on affected operators.

International Trade Impact Statement

This rule is expected to have neither an adverse impact on the trade opportunities for U.S. firms doing business abroad nor on foreign firms doing business in the United States. This assessment is based on the fact that part 135 air tour aircraft operators potentially impacted by this proposed SFAR do not compete with similar operators abroad. That is, their competitive environment is confined to the Grand Canyon National Park.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that all small entities are not unnecessarily and disproportionately burdened by Government regulations. The RFA requires Government agencies to review rules which may have "a significant economic impact on a substantial number of small entities." The small entities potentially impacted by this rule represent part 135 air tour operators with nine or less aircraft owned, but not necessarily operated. Based on FAA Order 2100.14A, the FAA's annualized threshold of significant economic impact for each of these small entities is estimated to be $60,000 (in 1990 dollars). As a result of adopting the DOI assessment of negligible cost of compliance to the small entities operating over the Grand Canyon, which was published in the cost-benefit analysis for SFAR 50–2 on June 2, 1988, the FAA concludes that this rule will not have a substantial economic impact on a substantial number of small entities.

Federalism Determination

The regulation herein will not have substantial direct effects on the states, on the relationship between the Federal Government and the states, or on the distribution of power and responsibilities among the various levels of government. This regulation is promulgated pursuant to the authority in the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301, et seq.), which has been construed to preempt state law regulating the same subject. Therefore, in accordance with Executive Order 12612, it is determined that this regulation does not have federalism implications warranting the preparation of a Federalism Assessment.

Conclusion

For the reasons discussed in the preamble, and based on the findings in the Regulatory Evaluation Summary and the International Trade Impact Analysis, the FAA has determined that this regulation is not major under Executive Order 12291. In addition, the FAA certifies that this amendment will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. This amendment is not considered significant under DOT Regulatory Policies and Procedures (44 FR 11024; February 26, 1979).

List of Subjects

14 CFR Part 91

Air traffic control, Aircraft, Aviation safety, Grand Canyon.

14 CFR Part 135

Air taxes, Aircraft, Aviation safety, Grand Canyon.

The Rule

In consideration of the foregoing, the Federal Aviation Administration is amending SFAR 50–2 (14 CFR Parts 91 and 135) as follows:

PART 91—[AMENDED]

1. The authority citation for Part 91 continues to read as follows:

Authority: 49 U.S.C. app. 1301(7), 1303, 1344, 1348, 1352 through 1355, 1401, 1421 through 1431, 1471, 1472, 1502, 1510, 1522, and 2121 through 2125; Articles 12, 29, 31, and 32(a) of the Convention on International Civil Aviation (61 Stat. 1180); 42 U.S.C. 4321 et seq.; E.O. 11514, 35 FR 4247, 3 CFR, 1966–1970 comp., p. 902; 49 U.S.C. 106(g).

PART 135—[AMENDED]

2. The authority citation for part 135 continues to read as follows:

Authority: 49 U.S.C. app. 1354(a), 1355(a), 1421 through 1431, and 1502; 49 U.S.C. 106(g).

3. Section 9 of Special Federal Aviation Regulation No. 50–2 is revised to read as follows:

SFAR No. 50–2—Special Flight Rules in the Vicinity of the Grand Canyon National Park, AZ

* * * * *

Sec. 9. *Termination date.* This Special Federal Aviation Regulation expires on June 15, 1995.

* * * * *

Issued in Washington, DC on June 11, 1992.

Barry Lambert Harris,

Acting Administrator.

[FR Doc. 92–14134 Filed 6–11–92; 4:42 pm]

BILLING CODE 4910–13–M

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S. 870/P.L. 102-299

Golden Gate National Recreation Area Addition Act of 1992. (June 9, 1992; 106 Stat. 236; 2 pages) Price: $1.00

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CFR CHECKLIST

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14 Parts:			
1–59	(869–017–00042–6)	25.00	Jan. 1, 1992
60–139	(869–017–00043–4)	22.00	Jan. 1, 1992
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15 Parts:			
0–299	(869–017–00047–7)	13.00	Jan. 1, 1992
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16 Parts:			
0–149	(869–017–00050–7)	6.00	Jan. 1, 1992
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1000–End	(869–017–00052–3)	20.00	Jan. 1, 1992
17 Parts:			
*1–199	(869–017–00054–0)	15.00	Apr. 1, 1992
200–239	(869–013–00055–2)	16.00	Apr. 1, 1991
240–End	(869–013–00056–1)	23.00	Apr. 1, 1991
18 Parts:			
1–149	(869–013–00057–9)	15.00	Apr. 1, 1991
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280–399	(869–013–00059–5)	13.00	Apr. 1, 1991
400–End	(869–013–00060–9)	9.00	Apr. 1, 1991
19 Parts:			
1–199	(869–013–00061–7)	28.00	Apr. 1, 1991
200–End	(869–013–00062–5)	9.50	Apr. 1, 1991
20 Parts:			
1–399	(869–013–00063–3)	16.00	Apr. 1, 1991
400–499	(869–013–00064–1)	25.00	Apr. 1, 1991
500–End	(869–013–00065–0)	21.00	Apr. 1, 1991
21 Parts:			
1–99	(869–013–00066–8)	12.00	Apr. 1, 1991
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170–199	(869–013–00068–4)	17.00	Apr. 1, 1991
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300–499	(869–013–00070–6)	28.00	Apr. 1, 1991
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1300–End	(869–013–00074–9)	7.50	Apr. 1, 1991
22 Parts:			
1–299	(869–013–00075–7)	25.00	Apr. 1, 1991
*300–End	(869–017–00076–1)	19.00	Apr. 1, 1992
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24 Parts:			
0–199	(869–013–00078–1)	25.00	Apr. 1, 1991
200–499	(869–013–00079–0)	27.00	Apr. 1, 1991
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300–499	(869–013–00099–4)	17.00	Apr. 1, 1991
500–599	(869–013–00100–1)	6.00	[5] Apr. 1, 1990

Title	Stock Number	Price	Revision Date
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29 Parts:			
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100–499	(869–013–00106–1)	7.50	July 1, 1991
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1927–End	(869–013–00113–3)	25.00	July 1, 1991
30 Parts:			
1–199	(869–013–00114–1)	22.00	July 1, 1991
200–699	(869–013–00115–0)	15.00	July 1, 1991
700–End	(869–013–00116–8)	21.00	July 1, 1991
31 Parts:			
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34 Parts:			
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43 Parts:			
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45 Parts:			
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[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period Jan. 1, 1987 to Dec. 31, 1991. The CFR volume issued January 1, 1987, should be retained.

[5] No amendments to this volume were promulgated during the period Apr. 1, 1990 to Mar. 31, 1991. The CFR volume issued April 1, 1990, should be retained.

[6] No amendments to this volume were promulgated during the period July 1, 1989 to June 30, 1991. The CFR volume issued July 1, 1989, should be retained.

[7] No amendments to this volume were promulgated during the period July 1, 1990 to June 30, 1991. The CFR volume issued July 1, 1990, should be retained.